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LEYDIG, VOIT AND MAYER  
TWO PRUDENTIAL PLAZA, SUITE 4900  
180 NORTH STETSON AVENUE  
CHICAGO, IL 60601

EXAMINER
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GOODEN JR, BARRY J

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* BJOERN MATTHIAS and ROLAND KRIEGER

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Appeal 2015-002905  
Application 12/664,126  
Technology Center 3600

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Before: MICHELLE R. OSINSKI, AMEE A. SHAH, and  
GORDON D. KINDER, *Administrative Patent Judges*.

KINDER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants<sup>1</sup> appeal under 35 U.S.C. § 134 from a rejection of claims 23–26, 29, 30, 33–37, 40–44. Oral argument was held April 25, 2017. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

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<sup>1</sup> Appellants inform us that the real party in interest is ABB Research Ltd. Appeal Br. 1.

### CLAIMED SUBJECT MATTER

The claims are directed to a process control, system, and method for the automated adaptation of process parameters of at least one handling device. Spec. ¶ 1. Claims 23, 41, and 44 are independent. Claim 23 is reproduced below and illustrates the claimed subject matter.

23. A system for automated adaption of at least one process parameter of a handling device comprising:

a supervision device configured to selectively monitor movement paths of the handling device that are set in a respective working process and to adapt a position and an alignment of the handling device in an automated rule-based manner in interaction with a control/regulation device without interrupting the respective working process of the handling device, wherein environment/safety-specific regulations are complied with irrespective of the respective working process, and wherein the system is configured to interact with the control/regulation device configured to monitor, control or regulate the handling device.

### REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Tino	US 5,280,622	Jan. 18, 1994
Merte et al.	WO 2006/024431 A1	Mar. 9, 2006

### REJECTION<sup>2</sup>

Claims 23–26, 29, 30, 33–37, and 40–44 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Merte in view of Tino.

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<sup>2</sup> Claim 44 was rejected under 35 U.S.C. § 112 in the Final Action. Final Act. 3. An Amendment After Notice of Appeal was filed Jan. 24, 2014, addressing this rejection as suggested by the Examiner in the Final Action.

## ANALYSIS

The Examiner relies on Merte for all the limitations of claim 23 except for adapting the position and/or alignment of the handling device upon detecting an unwanted intrusion. Final Act. 4, 7. The Examiner finds that Tino discloses a system for controlling a robot “configured to interact with [a] control/regulation device so as to change a respective position or a respective alignment of the handling device.” Final Act. 7, citing Tino 3:1–5 and 9:62–10:12.

Appellants argue the claims as a group. *See* Appeal Br. 4. We select claim 23 as representative of the group; and claims 24–26, 29, 30, 33–37, 40–44 stand or fall with claim 23.<sup>3</sup> 37 C.F.R. § 41.37(c)(1)(iv).

Specifically, Appellants contend that neither reference discloses

a supervision device configured to selectively monitor movement paths of the handling device that are set in a respective working process and to adapt a position and an alignment of the handling device ... *without interrupting the respective working process of the handling device.*

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An Advisory Action, mailed Feb. 14, 2014, indicated the amendment would be entered. The Answer does not explicitly withdraw the rejection, but the Examiner’s statement of Grounds of Rejection to be Reviewed on Appeal omits any mention of this rejection of claim 44 (Ans. 2). As such, we consider the rejection under § 112 to be withdrawn.

<sup>3</sup> Appellants’ Appeal Brief states that claim 46 is pending, and it is argued together with the other claims. Appellants, however, acknowledge that “claim 46 would no longer be on appeal” if the Amendment After Notice of Appeal filed January 24, 2014 were entered. Appeal Br. 6. The Appeal Brief, Claims Appendix, states that claim 46 has been canceled. Inasmuch as the Advisory Action, mailed Feb. 14, 2014, indicated the amendment would be entered and the Claims Appendix was corrected and submitted after the Appeal Brief, we do not consider claim 46 as pending or subject to this appeal.

Appeal Br. 4–5.

The issue in this appeal centers on whether the final paragraph of Tino discloses changing (“adapting”) a position and alignment of a robot (“handling device”) without interrupting the respective working process of the handling device. Final Act. 7, Appeal Br. 5, Ans. 2–3, Reply Br. 2.

Tino discloses a robotic control system in which a robotic arm is first slowed and then stopped with decreasing distance between the robot arm and an unexpected object detected inside a protected perimeter (*see* Tino 8:47–65), with variations to the invention being possible (*id.* at 9:63–67). In this regard Tino discloses:

For example, although movement of a robot may be slowed or halted as the distance between the robot and an obstruction decreases, the direction of movement of the robot may be reversed to increase a separation distance. Further, certain motions or movements of the robot may be selectively inhibited in response to the detection system.

*Id.* at 9:67–10:5.

The Examiner finds, and Appellants do not contest, that the limitation in claim 23 “without interrupting the respective working process of the handling device” (Appeal Br. 2 (Claims App’x)) “does not preclude the apparatus from altering or extending the original working process as [] during the increasing of separation distance process of Tino the working process is not ‘interrupted’ as interrupted is taken as a shutdown of the working procedure.” Ans. 3. The Examiner then finds that Tino’s process is without interruption to the degree that the present invention is without interruption. *Id.*, citing Spec. ¶ 76. The Examiner also finds that in Tino, “[w]hen the direction of movement is reversed[,] a position and an

alignment of the handling device are adapted without interrupting the respective working process.” *Id.*

We agree with the Examiner’s finding (*id.*) that Tino’s reversing the direction of robot movement to increase a separation distance discloses “adapt[ing] a position and an alignment of the handling device in an automated rule-based manner in interaction with a control/regulation device without interrupting the respective working process of the handling device,” as recited by the claim (Appeal Br., Claims App’x 2). We are not persuaded by Appellants’ argument that Tino stops all robot activity subsequent to reversing. Appeal Br. 5. Appellants have not provided adequate evidence or technical reasoning explaining why the reversing in Tino does not meet the challenged limitation in claim 23. The Examiner’s rejection is based on Tino’s reversing. Appellants’ argument focuses on what happens in Tino after the robot direction has been reversed, but does not address the reversing itself.

For the foregoing reasons, and after considering all the arguments and evidence, we are not persuaded the Examiner erred in rejecting claim 23. Accordingly, the rejection of independent claim 23 and of claim 24–26, 29, 30, 33–37, and 40–44, which fall with claim 23, is sustained.

#### DECISION

The Examiner’s rejection of claims 23–26, 29, 30, 33–37, and 40–44 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED